

§ 1021.320 Environmental assessments.

DOE shall prepare and circulate EAs and related FONSIIs in accordance with the requirements of the CEQ Regulations, as supplemented by this subpart.

§ 1021.321 Requirements for environmental assessments.

(a) *When to prepare an EA.* As required by 40 CFR 1501.4(b), DOE shall prepare an EA for a proposed DOE action that is described in the classes of actions listed in appendix C to subpart D of this part, and for a proposed DOE action that is not described in any of the classes of actions listed in appendices A, B, or D to subpart D, except that an EA is not required if DOE has decided to prepare an EIS. DOE may prepare an EA on any action at any time in order to assist agency planning and decisionmaking.

(b) *Purposes.* A DOE EA shall serve the purposes identified in 40 CFR 1508.9(a), which include providing sufficient evidence and analysis for determining whether to prepare an EIS or to issue a FONSI. If appropriate, a DOE EA shall also include any floodplain/wetlands assessment prepared under 10 CFR part 1022 and may include analyses needed for other environmental determinations.

(c) *Content.* A DOE EA shall comply with the requirements found at 40 CFR 1508.9. In addition to any other alternatives, DOE shall assess the no action alternative in an EA, even when the proposed action is specifically required by legislation or a court order.

§ 1021.322 Findings of no significant impact.

(a) DOE shall prepare a FONSI only if the related EA supports the finding that the proposed action will not have a significant effect on the human environment. If a required DOE EA does not support a FONSI, DOE shall prepare an EIS and issue a ROD before taking action on the proposal addressed by the EA, except as permitted under 40 CFR 1506.1 and § 1021.211 of this part.

(b) In addition to the requirements found at 40 CFR 1508.13, a DOE FONSI shall include the following:

(1) Any commitments to mitigations that are essential to render the im-

pacts of the proposed action not significant, beyond those mitigations that are integral elements of the proposed action, and a reference to the Mitigation Action Plan prepared under § 1021.331 of this part;

(2) Any "Statement of Findings" required by 10 CFR part 1022, "Compliance with Floodplain/Wetlands Environmental Review Requirements";

(3) The date of issuance; and

(4) The signature of the DOE approving official.

(c) DOE shall make FONSIIs available to the public as provided at 40 CFR 1501.4(e)(1) and 1506.6; DOE shall make copies available for inspection in the appropriate DOE public reading room(s) or other appropriate location(s) for a reasonable time.

(d) DOE shall issue a proposed FONSI for public review and comment before making a final determination on the FONSI if required by 40 CFR 1501.4(e)(2); DOE may issue a proposed FONSI for public review and comment in other situations as well.

(e) Upon issuance of the FONSI, DOE may proceed with the proposed action subject to any mitigation commitments expressed in the FONSI that are essential to render the impacts of the proposed action not significant.

(f) DOE may revise a FONSI at any time, so long as the revision is supported by an existing EA. A revised FONSI is subject to all provisions of paragraph (d) of this section.

[57 FR 15144, Apr. 24, 1992, as amended at 61 FR 36239, July 9, 1996]

§ 1021.330 Programmatic (including site-wide) NEPA documents.

(a) When required to support a DOE programmatic decision (40 CFR 1508.18(b)(3)), DOE shall prepare a programmatic EIS or EA (40 CFR 1502.4). DOE may also prepare a programmatic EIS or EA at any time to further the purposes of NEPA.

(b) A DOE programmatic NEPA document shall be prepared, issued, and circulated in accordance with the requirements for any other NEPA document, as established by the CEQ Regulations and this part.

(c) As a matter of policy when not otherwise required, DOE shall prepare

site-wide EISs for certain large, multiple-facility DOE sites; DOE may prepare EISs or EAs for other sites to assess the impacts of all or selected functions at those sites.

(d) DOE shall evaluate site wide NEPA documents prepared under §1021.330(c) at least every five years. DOE shall evaluate site-wide EISs by means of a Supplement Analysis, as provided in §1021.314. Based on the Supplement Analysis, DOE shall determine whether the existing EIS remains adequate or whether to prepare a new site-wide EIS or supplement the existing EIS, as appropriate. The determination and supporting analysis shall be made available in the appropriate DOE public reading room(s) or in other appropriate location(s) for a reasonable time.

(e) DOE shall evaluate site-wide EAs by means of an analysis similar to the Supplement Analysis to determine whether the existing site-wide EA remains adequate, whether to prepare a new site-wide EA, revise the FONSI, or prepare a site wide EIS, as appropriate. The determination and supporting analysis shall be made available in the appropriate DOE public reading room(s) or in other appropriate location(s) for a reasonable time.

§ 1021.331 Mitigation action plans.

(a) Following completion of each EIS and its associated ROD, DOE shall prepare a Mitigation Action Plan that addresses mitigation commitments expressed in the ROD. The Mitigation Action Plan shall explain how the corresponding mitigation measures, designed to mitigate adverse environmental impacts associated with the course of action directed by the ROD, will be planned and implemented. The Mitigation Action Plan shall be prepared before DOE takes any action directed by the ROD that is the subject of a mitigation commitment.

(b) In certain circumstances, as specified in §1021.322(b)(2), DOE shall also prepare a Mitigation Action Plan for commitments to mitigations that are essential to render the impacts of the proposed action not significant. The Mitigation Action Plan shall address all commitments to such necessary mitigations and explain how mitiga-

tion will be planned and implemented. The Mitigation Action Plan shall be prepared before the FONSI is issued and shall be referenced therein.

(c) Each Mitigation Action Plan shall be as complete as possible, commensurate with the information available regarding the course of action either directed by the ROD or the action to be covered by the FONSI, as appropriate. DOE may revise the Plan as more specific and detailed information becomes available.

(d) DOE shall make copies of the Mitigation Action Plans available for inspection in the appropriate DOE public reading room(s) or other appropriate location(s) for a reasonable time. Copies of the Mitigation Action Plans shall also be available upon written request.

§ 1021.340 Classified, confidential, and otherwise exempt information.

(a) Notwithstanding other sections of this part, DOE shall not disclose classified, confidential, or other information that DOE otherwise would not disclose pursuant to the Freedom of Information Act (FOIA) (5 U.S.C. 552) and 10 CFR 1004.10(b) of DOE's regulations implementing the FOIA, except as provided by 40 CFR 1506.6(f).

(b) To the fullest extent possible, DOE shall segregate any information that is exempt from disclosure requirements into an appendix to allow public review of the remainder of a NEPA document.

(c) If exempt information cannot be segregated, or if segregation would leave essentially meaningless material, DOE shall withhold the entire NEPA document from the public; however, DOE shall prepare the NEPA document, in accordance with the CEQ Regulations and this part, and use it in DOE decisionmaking.

§ 1021.341 Coordination with other environmental review requirements.

(a) In accordance with 40 CFR 1500.4(k) and (o), 1502.25, and 1506.4, DOE shall integrate the NEPA process and coordinate NEPA compliance with other environmental review requirements to the fullest extent possible.

(b) To the extent possible, DOE shall determine the applicability of other